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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,370	06/19/2000	Yatin R. Acharya	E0877	3844
45305	7590	10/29/2004	EXAMINER	
RENNER, OTTO, BOISSELLE & SKLAR, LLP (AMDS)			TRAN, PHUC H	
1621 EUCLID AVE - 19TH FLOOR			ART UNIT	
CLEVELAND, OH 44115-2191			PAPER NUMBER	
			2666	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/597,370

Applicant(s) ^{OK}

ACHARYA ET AL.

Examiner

PHUC H TRAN

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11 and 13-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-11 and 13-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to the applicant's response filed 6/21/04. The following claims 9,10,15,19,20 were indicated allowable by examiner in previous office action; however, these claims are unpatentable in view of new arts. Therefore, these indicated claims are withdrawn. Claims 2-11, 13-38 are pending in the application. Detailed action is followed:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-11, and 13-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sambamurthy et al. (U.S. Patent No. 6108713) in view of Bray (U.S. Patent No. 6529961 B1).

- With respect to claims 4, 9-10, 13, 15-16, 19-20, 23, 29, 31, 34, & 36, Sambamurthy teaches a method of testing a network device (the MAC for transferring data along a computer network with control information comprising:

sending control information from a tester to the network device via data bus of a media independent interface (col. 38, lines 38-41, Fig. 2, Fig. 4) at a data rate greater than 2.5 Mb/sec (col. 1, lines 55-57);

and using the control information to write to and/or read (at Tx and Rx in Fig. 2) from registers (block 126 in Fig. 2) of the tester;

placing the network device in a test mode prior to passing the control information to the network device (table 2 in col. 17).

Sambamurthy fails to teach wherein the sending the control information includes sending the information via at least four pins of a data bus. Bray teaches the sending via at least four pins of data bus (col. 3, lines 42-50). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the four pins of data bus to transmit the information in the network. The transmit data pins of the MII can be implement by connecting to the Tx MAC of Sambamurthy. The motivation for using the four pins of data bus as taught by Bray in the Tx MAC for supplying data in a parallel and faster transmission in the network device.

- With respect to claims 2-3, 17-18, 21-22, 32-33, & 37-38, Sambamurthy also teaches wherein the sending the control information includes sending the information at least 10/100 Mb/sec (col. 1, lines 55-57).

- With respect to claims 5-7, & 24-26, Sambamurthy discloses wherein the sending information via the data bus includes sending the information in frames, which has preamble, DA, SA, LT LLC and CRC (Fig. 5A).

- With respect to claims 8, & 27, Sambamurthy teaches wherein the using the information includes extracting the control information from the frames in the network device (e.g. Fig. 10 of receiving data flow).

- With respect to claims 11, & 28, Sambamurthy discloses wherein the control information includes information in the form of register addresses and register contents (block 126 in Fig. 2).

- With respect to claims 14, 30, & 35, Sambamurthy further comprises evaluating the network device using the information from the network device passed to the tester (col. 12, lines 10-12).

Response to Arguments

3. Applicant's arguments with respect to claims 2-11 and 13-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO form 892.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
10/27/04



DANG TON
PRIMARY EXAMINER